

NEWSRELEASE

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Corrections: Law prevents proposed restriction on offender use of medical marijuana

A proposed change in Department of Corrections rules imposing standard conditions for offenders on parole or probation will not include a restriction on physician-approved use of marijuana for medical purposes, the agency said Thursday.

Diana Koch, chief legal counsel for the department, said the decision to exclude the marijuana provision from the rules does not mean the department endorses the use of marijuana. "The use of marijuana is not in the best interest of the public or of offenders, who are responsible for rehabilitating themselves while under supervision in the community, she said.

The wording of the 2004 law allowing doctor-authorized marijuana use prevented adoption of the rule, she explained. "Our hands are tied by the way the initiative-passed law was written. As a result, those who have broken law cannot be subject to this reasonable restriction."

Proponents of marijuana use by convicted felons testified at administrative rules hearings that the medical marijuana act prohibits any penalty for using medical marijuana, regardless of an offender's criminal history. After considering the comments, the department acknowledged that the law does not contemplate permitting such restrictions, even for people on probation or parole.

"The process of reviewing and adopting administrative rules works," Koch said. "The public was heard.

"I'm not sure the voters of Montana understood that the medical marijuana act was going to go this far," she added. "There is the very real possibility that a person convicted of drug distribution can get a medical marijuana card, and there is nothing probation and parole officers can do about it."

During the rules process, the Department of Corrections proposed prohibiting all persons on probation or parole from using marijuana, even if they obtained a medical marijuana card. Offenders could have obtained a judicial exemption for medical reasons and the proposed restriction would have ended when offenders completed their sentences.

Most of the remaining rule changes affecting conditions of supervision make more specific existing regulations regarding prohibitions on gambling, firearms and alcohol; allowing searches of an offender's home and random testing of offenders for alcohol or illegal drug use; and offenders' payment of court-ordered fines and restitution. Those rules are scheduled to take effect June 13.